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Office of the Secretary
Federal Communications Commission
Washington D.C. 20554

Dear Secretary,

WT Docket No 97-8

This is a reply comment regarding
the Multiple Address System. I
endorse the enclosed memorandum.
I feel strongly that the Lottery should
proceed as originally planned and
if not my money be returned.



Jerry D. Wolf
38 Heatherwood Ln.
Billings, MT 59102

Sincerely

J D Wolf NO

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MEMORANDUM

TO: MAS Clients

FROM: Eliot J. Greenwald

DATE: April 14, 1997

RE: FCC Auction Proposal

In its Notice of Proposed Rulemaking for WT Docket No. 97-81, *Amendment of the Commission's Rules Regarding Multiple Address Systems*, the Federal Communications Commission ("FCC") proposed to adopt geographic area licensing for Multiple Address Systems ("MAS") and to license such areas by auction. The FCC also proposed to dismiss the MAS applications that have been pending for over five years.

The FCC provided several reasons for its proposed dismissal. It argued that the large number of pending applications and potential markets would result in greater processing costs and delay in service from using a lottery rather than an auction. Second, the FCC argued that because of the rule changes resulting in geographic area licensing rather than site specific licensing (as was applied for), the processing of the pending applications would be inconsistent with the new licensing approach. Therefore, the FCC claimed that "the pending applicants would in any case need to substantially rethink their initial plans." Lastly, the FCC argued that the pending applicants could have applied for other spectrum to carry out their business plans during the pendency of their applications, and thus would not be harmed by the dismissal of their applications. The FCC concluded by stating that the strong public interest factors in favor of using auctions outweighs the expectations of those applicants, who, in good faith, expected to participate in a lottery and, if successful, provide MAS service.

We will be filing comments with the FCC opposing the dismissal of your applications and opposing the use of auctions. We will also request that should the FCC not agree with us and dismiss your applications anyway, then the FCC should refund your application filing fees to you. As you may recall, the majority of your expense regarding your MAS applications was the payment of the FCC application filing fees.

In addition, we urge you to file your own comments by writing a letter to the FCC. You would need to file an original and four copies with the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Alternatively, you may file informal comments by electronic mail by addressing them to bjames@fcc.gov. Whether you file formally or informally, you need to write WT Docket No. 97-81 on the first page. You must also include your name and mailing address with your comments.

If you file comments, we urge you to explain that you filed your MAS applications over five years ago so that you could provide MAS service. It is simply unfair for the FCC to dismiss your applications. If a private business were to do what the FCC is proposing to do, you would be able to sue them for fraud and a host of other violations. In addition to FCC application fees, you spent considerable amounts on business planning, engineering and legal, and that investment would be lost if your applications were dismissed. It has been some time since the FCC processed your applications and prepared a lottery list, and the main cause of the delay has been the FCC's failure to release the lottery list. A lottery would not result in processing delays, because the lottery list has already been prepared. The FCC need only release the list and hold the lottery 60 days later. Although the FCC claims that you could have filed for other spectrum, the fact of the matter is that you did not, because you expected the FCC to process your applications and hold the lottery. It is the FCC's fault for not holding the lottery; not your fault for not filing for other spectrum. In addition, if the FCC wishes to license by geographic area rather than by transmitter site, it would be no problem for you if the FCC converts your application into a geographic area application for the geographic area that contains your transmitter site. That would allow the FCC to hold a lottery for your applications that have been pending for over five years and also allow the FCC to issue geographic licenses. Lastly, in the event the FCC does decide to hold an auction and dismiss your applications, then you insist that the FCC refund your application fees, because you would not be getting the lottery that you paid for. If the government charges for a service that you do not get, you are entitled to a refund of your fees.

Comments are due April 21, 1997, and reply comments are due May 6, 1997. We urge you to get your comments in to the FCC.